IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.Rev.Pet.No. 3711 of 2007()

CRMP.2992/2007 of SESSIONS COURT, KOLLAM
CC.508/2003 of JUDL.MAGISTRATE OF FIRST CLASS, KARUNAGAPPALLY

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REVN. PETITIONER: COMPLAINANT

PRASANNAKUMAR,
PRIYA VIHAR, ADINADU SOUTH, ADINADU VILLAGE.

BY ADV. SMT.S.KARTHIKA
SRI.M.S.UNNIKRISHNAN
SMT.K.P.GEETHA MANI
SRI.M.R.ANISON
SRI.T.R.RAJESH

RESPONDENTS: RESPONDENTS

1. SIVAPRASAD,
MANNASSERIL HOUSE, KULASEKHARAPURAM,
KARUNAGAPPALLY.

2. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, KOLLAM.

BY PUBLIC PROSECUTOR SRI.K.M. FIROZ

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P.NO. 3711 of 2007

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Dated: 19-10-2007

ORDER

The contention raised by the revision petitioner who was the complainant in S.T. 45 of 2006 before the Munsiff-Magistrate, Karunagappally was that since that Magistrate is exercising power as such only in pursuance of an empowerment by the High Court under Section 11 (3) Cr.P.C. that Magistrate does not possess the power to try the offence in view of Section 43 of the Negotiable Instruments Act which contains a non obstante clause overriding the provisions of the Cr.P.C. The petitioner's argument was that only regular Magistrate appointed under Section 11 (1) Cr.P.C. can try the offence and the complaint instituted before the Chief Judicial Magistrate should have been made over to a regular Magistrate. When the matter came up for hearing on admission today, the learned counsel for the petitioner submitted that the complaint has since been dismissed presumably for the reason that an offence under Sec. 138 of the Negotiable Instruments Act is not made out as the accused therein is not the account holder of the cheque in question. So, the above contention is purely academic.

This Revision is accordingly dismissed without prejudice to the right of the petitioner to raise the contention in case the same question comes up for consideration if the petitioner files another complaint, if so advised.

V. RAMKUMAR,
(JUDGE)

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